THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 2910 OF 2006

DATED: 09-02-2007

Between:

Guild of Service (Seva Samajam)'s Aided
Elementary School, Kakinada-3, East Godavari
District, rep.by its Secretary and Correspondent
Y. Savithri Devi

… Petitioner

And

The State of Andhra Pradesh, rep.by its
Secretary, Education Department,
Government of A.P.,Secretariat Buildings,
Hyderabad and two others

… Respondents

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ORDER:

Though interlocutory applications are listed for hearing, as counter affidavit is already filed in the Writ petition, at the request of the learned Counsel appearing for the parties, the writ petition itself is taken up for hearing and is being disposed of by this order.

The petitioner, an aided elementary school, seeks Writ of Mandamus to declare the action of the respondents in withholding the orders for approval of selections made by the Staff Selection Committee of the petitioner-school, in terms of the proceedings of the District Educational Officer, dated 09-11-2004 as illegal and arbitrary.

In the affidavit filed in support of the Writ Petition, it is stated that the petitioner-school was started in the year 1980 in Kakinada town of East Godavari District, with an object of serving educational needs of the residents of Kakinada and surrounding areas. In the petitioner-school, on teaching side, six posts were admitted to grand-in-aid.

During the year 2002, two vacancies of Secondary Grade Teachers arose, one on account of retirement of one of the teachers and the other due to voluntary retirement taken by other teacher. The management of the school, in order to fill up the vacant posts, forwarded the proposals to the District Educational Officer, in terms of the Rules framed in G.O.Ms.No.1, dated
01-01-1994, and, the said competent authority vide his proceedings dated 20-08-2004 granted permission to the management to fill up the posts. Thereafter, the District Educational Officer also issued orders appointing a nominee to the Staff Selection Committee as required under the Rules and, selections to the said posts were made by conducting written test as well as oral test. When the said selection proposals were sent to the District Educational Officer for approval, the same were not approved on the ground that the Government has issued orders in Memo No.2080/C&DSE/A2/2004, dated 20-10-2004, imposing ban in filling up the grant-in-aid vacant posts. When the selections were not approved in view of the ban orders issued by the Government, the petitioner has filed this Writ Petition.

In similar situation, when selections were not approved by the competent authority to fill-up the vacant posts on account of ban imposed by the Government, a batch of Writ Petitions were filed before this Court and, against the orders of the learned Single Judge, on appeals filed by the Government, the said issues were considered by the Division Bench of this Court in Writ Appeal No.1578/2005 and batch. In the above said batch of cases, the view taken by the learned Single Judge, that the proposals for approval cannot be stalled as the process had begun earlier to the ban imposed by the Government, was approved by the Division Bench. In this case also, the competent authority has granted permission to fill up the vacant posts vide proceedings dated
20-08-2004, whereas the orders were issued by the Government imposing ban on 20-10-2004. Further, in the counter affidavit filed by

the respondents, it is categorically stated that the management has followed the due procedure for filling up the said vacant posts as per the Rules framed in G.O.Ms.No.1 dated 01-01-1994.

In view of the judgment of the Division Bench of this Court in Writ Appeal No.1578 of 2005 and batch, and, further, in this case, as permission to fill-up the vacant posts was granted prior to the issuance of ban orders in Memo No.2080/C&DSE/A2/2004, dated 20-10-2004, I dispose of the Writ Petition directing the respondents to consider the proposals for approval of the selections made by the Staff Selection Committee to fill up the two vacant grant-in-aid posts in the petitioner-school, without reference to the ban orders issued in Memo dated 20-10-2004. However, it is made clear that such consideration shall be as per the Rules and instructions, which are applicable in this regard.

Subject to the above direction, the Writ Petition is disposed of. No order as to costs.

R. SUBHASH REDDY, J.

DATED: 09-02-2007
Rns/Msnr.

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RNS